THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.9014 of 2006

Dated: 05.06.2006

Between:

L.S. Azaraiah, S/o Symon, Conductor, SPG Mission Compound, Kurnool, Kurnool District.

.... PETITIONER

AND

The Depot Manager, APSRTC, Kurnool-II, Kurnool District.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.9014 of 2006

Order:

The petitioner is employed as a Conductor in the respondent-Depot of A.P.S.R.T.C. He was issued a suspension order-cum-charge sheet, dated 10.07.1992, alleging that while conducting the bus, he committed some cash and ticket irregularities on 04.07.1992. The petitioner submitted his explanation denying the charges. Thereafter, an enquiry was conducted into the charges. The Enquiry Officer, having conducted the enquiry, held the charges proved. Based on the report submitted by the Enquiry Officer, the respondent straight away passed the impugned order imposing the punishment of stoppage of two annual increments with cumulative effect and treating the period of suspension as not on duty. Aggrieved by the same, the petitioner filed the present writ petition.

When the matter is taken up for hearing, it is submitted by the learned counsel for the petitioner and admitted to by the learned Standing Counsel for the respondent-Corporation that the subject matter of this writ petition is squarely covered by the judgment of this Court passed in W.P. No. 23696 of 2005, dated 10.11.2005, and they both agreed to dispose of the present writ petition on the same terms.

In W.P. No. 23696 of 2005, this Court passed the following orders.

> "The respondent followed a peculiar procedure, in the disciplinary proceedings initiated, against the petitioner. An

enquiry was conducted, and on the basis of the report submitted by the enquiry officer, the respondent has, straight away, inflicted the punishment of stoppage of two annual increments, with cumulative effect. However, he has chosen to issue a show-cause notice, in relation to the period of suspension. Therefore, it clearly emerges that the punishment of stoppage of increments, with cumulative effect, was inflicted on the petitioner, without issuing any show-cause notice, after the departmental enquiry was conducted. When the respondent himself recognized the necessity to issue a show-cause notice, as to how the period of suspension must be treated, as not on duty, he ought to have followed the same procedure, before inflicting the punishment of stoppage of increments, that too, with cumulative effect.

Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly 12 years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of two annual increments, with cumulative effect, shall be treated as the one, without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, up to the date of this order, on account of the modification of the punishment.

The writ petition is accordingly disposed of. There shall be no order as to costs."

Having regard to the facts and circumstances of the case and in view of the agreed stand taken by both the counsel, this writ petition is also disposed of in terms of the judgment in W.P.

No. 23696 of 2005, dated 10.11.2005. No costs.

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N.V. RAMANA, J.

Date: 05.06.2006
Nsr/Ksr